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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,112	01/18/2001	Karl Lang	MT11877-141	8261
8698	7590	09/19/2007		
STANDLEY LAW GROUP LLP			EXAMINER	
495 METRO PLACE SOUTH			WRIGHT, PATRICIA KATHRYN	
SUITE 210			ART UNIT	PAPER NUMBER
DUBLIN, OH 43017			1743	
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			09/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/765,112	Applicant(s) LANG, KARL	
	Examiner P. Kathryn Wright	Art Unit 1743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 and 35-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29, 35-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 26, 2007 has been entered.
2. Claim 1 has been cancelled in the Response filed July 26, 2007. Claims 30-34 were previously cancelled. New claims 35-38 have been added. Claims 2-29, 35-38 are currently pending.
3. Any rejection/ objection not repeated herein has been withdrawn by the Office.

Drawings

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "holder element with at least two receptacles" (claim 35) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure

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number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: holder element (claims 35-36) and at least two receptacles (claim 35).

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 2-29, 35-38 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

New independent claim 35 recites an instrument holder comprising a holder element with at least two receptacles, each receptacle arranged to receive and hold one of the at least two instruments. The “holder element” and “at least two receptacles” do not appear to find support in the specification as originally filed. At page 13, line 20, the specification does describe “the opening 6 of the instrument holder 5 is designed to receive a cup-shaped holder ring 15 with a knob handle 23 at the center. The holder ring 15 has receiving holes 16 for holding various elongated instruments such as, in the illustrated case, eight 25 tubes 17, but the elongated instruments could also be pipettes or measuring electrodes”. It is not clear whether the “holder ring” corresponds to the claimed “cup-shaped holder element” in claims 35-36. Moreover, it is not clear whether the “receiving holes” correspond to the claimed “at least two receptacles” recited in claim 35.

Furthermore it is noted that Applicant has merely asserted in the outstanding Response (page 7) that the newly added claimed limitation are found in Figure 3 without specifically pointing out where the limitations find support in the application as filed. See MPEP 2163.04(I).

Claim Rejections - 35 USC § 103

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claims 2-29 and 35-38 remain rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent no. 3,552,212 to Ohlin in view of US Patent 5,650,122 to Harris. (hereinafter Harris).

Ohlin discloses a device for cleaning the exterior of instruments, such as transfer devices. The device comprises an instrument holder (22) including a holder element (reads on ring; no reference No. in Figs 1-2). The instrument holder is connected to a vertical post (23) on a housing (11). The ring surrounds the transfer instrument entirely. The vertical post is mounted for axial reciprocation and rotation. A washing device (24) is provided to wash the transfer instruments. The washing device is located vertically below the transfer instruments. The washing device contains a passageway (34), through which wash fluid flows into a recess (31) where the transfer instruments are contacted with the wash fluid. The washing device is separate from the instrument holder.

With respect to the wash device (24) being movable relative to the instruments being cleaned, Ohlin teaches that the collar of the wash device need not be stationary while the body to be cleaned is displaceable, but the collar may move while the instrument being cleaned is stationary (col. 3, lines 51-53). Thus, the wash device may be movable in relation to the instrument being cleaned. Presumably, a drive

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mechanism allows the instrument and/or wash device to be movable. The housing (11) serves as a constraint to limit the movement of the vertical post. See figures 1-3.

Ohlin differs from the instantly claimed invention in that there is no disclosure of a jet orifice that sprays wash fluid at the instruments that are to be cleaned.

Harris teaches an analysis instrument having a wash manifold (486) for washing aspiration tubes. The wash manifold is charged with a high pressure stream (jet stream) of wash solution by a pump. The wash manifold has multiple wash tubes (484), each of the wash tubes having a fluid outlet/orifice (488) to direct wash solution at the aspiration tubes. The tubes Harris further teaches that the fluid outlets are angled toward the aspiration tube at an angle of about 15 degrees, as recited in claims 8, 9, 15, 16 and 17. Harris teaches that the diameter of the outlet is 0.027 inch (0.68 mm), as recited in claims 12-14. Further, Harris teaches that in spraying the wash solution, an agitated scrubbing action is provided and the time required to conduct the wash cycle is reduced. See col. 15, lines 26-45.

Thus, it would have been obvious to one of ordinary skill in the art to include in the device of Ohlin the use jet orifices directed at an angle, as taught by Harris, to enhance the washing process (because of the scrubbing action provided by spraying) and thus reduce the time needed to completely wash the instruments. Furthermore, it would have been obvious to one of ordinary skill in the art to use multiple jets to assure that the entire instrument is cleaned. With respect to the claim recitation that the instrument holder including a holder least two receptacles to hold one instrument, one of ordinary skill in the art would recognize that more than one instrument could fit into the

receptacle holder of Ohlin, in other words, two or more smaller instruments could fit into the ring and simultaneously washed.

10. Claims 2-29 and 35-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent no. 4,338,280 to Ambers et al. (hereinafter "Ambers").

Ambers discloses a device for cleaning the exterior of instruments (24). The device comprises an instrument holder (108) having a removable holder element (130) with a single receptacle (132; Fig. 4). Note that "receptacle" has been interpreted by the Office to mean "aperture" or "receiving holes". The instrument holder is connected to a vertical post (106) on a housing (100). The ring surrounds the transfer instrument entirely. The vertical post is mounted for axial reciprocation and rotation.

Amber teaches a washing device (50) designed to wash the instruments in the instrument holder. The washing device has a central opening (180) located vertically below the instrument holder. The washing device includes a plurality of diametrically opposed jet orifices (182, 184; Fig. 5) and a passageway (188, 192), through which wash fluid flows into a recess (186) where the transfer instruments are contacted with the wash fluid. The washing device is separate and moveable from the instrument holder.

The wash device may be movable in relation to the instrument being cleaned. A drive mechanism (72, 74) allows the instrument to be movable relative to the wash device (col. 3, lines 64+). The housing (100) serves as a constraint to limit the

movement of the vertical post. See figure 2. The fluid jet orifices are angled toward the aspiration tube at an angle of about 25 degrees, as recited in claims 8, 9, 15, 16 and 17.

Ambers differs from the instantly claimed invention in that there is no disclosure of the holder element having at least two receptacles (apertures), each for holding an instrument.

However, it would have been obvious to one of ordinary skill in the art at the time of the claimed invention to include in the device of Amber at least two receptacles in the holder element, since the ordinary artisan would recognize that this would increase washing throughput. Furthermore, the court has held that mere duplication of parts has no patentable significance unless a new and unexpected result is produced. See MPEP 2144.04 and *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

Response to Arguments

11. Applicant's arguments filed July 26, 2007 have been fully considered but they are not persuasive.

In response to the previous rejection of claim 1-29 over Ohlin in view of Harris, Applicant alleges that Ohlin '212 teaches no embodiment with a holder element having at least two receptacles, each receptacle arranged to receive and hold one of the two instruments. Specifically, Applicant argues that the lower probe portion 19 in Ohlin passes through the bore to create an "annular space" with the walls of the bore. Applicant argues that this annular space can only be created when the when a single

instrument is passed through central opening. Applicant concludes that Ohlin does not teach an embodiment where the space is not annular.

Respectfully, the Office does not agree with Applicant. The Examiner contends that shape of the space between the instrument and the wash ring in Ohlin is not germane to the argument. The invention as currently claimed does not define the space between the instrument and the wash ring. Furthermore, Ohlin not teach away from wash ring surrounding at least two instruments (i.e., probes) because the Ohlin disclosure does not criticize, discredit, or otherwise discourage the wash ring from surrounding at least two probes. See *In re Fulton*, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004) and MPEP 2123. Furthermore, Ohlin does not set forth a particular range for the annular space. Ohlin states that the shape of the bore 26 in the wash ring and the relative dimensions bore 26 and the probe portion 19 to be cleaned are not critical, see col. 3 lines 33+. (Emphasis added.) Thus, it is possible for the Ohlin wash ring to simultaneously surround a plurality of smaller probes, like the 18-gauge needles taught in Harris, and spray wash fluid at the instruments, as recited in the instant claims.

For the reasons delineated above, Applicant has failed to demonstrate that the washing device of Ohlin not capable of surrounding at least two probes or that it would be rendered inoperable for its intended purpose (i.e., washing). Thus, the rejection of the instant claims is maintained.

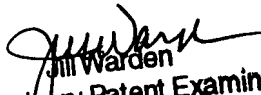
Conclusion

12. No claims are allowed.
13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to P. Kathryn Wright whose telephone number is 571-272-2374. The examiner can normally be reached on Thursday, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

pkw


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